

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 25, 1999

ALL COUNTY INFORMATION NOTICE NO. I-04-99

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY IHSS OFFICES  
ALL COUNTY COUNSELS  
ALL COUNTY PUBLIC GUARDIAN OFFICES

**REASON FOR THIS TRANSMITTAL**

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

**SUBJECT: 1998 CHAPTERED LEGISLATION: ADULT SERVICES PROGRAMS**

This provides information regarding statutes enacted during the 1998 legislative session that affect programs for which the California Department of Social Services' Adult Programs Branch has responsibility. Specifically, the Assembly Bills (AB) and Senate Bills (SB) summarized in this notice affect the In-Home Supportive Services Program (IHSS), the Supplemental Security Income/State Supplementary Payment Program (SSI/SSP), the Special Circumstances Program (SC), the Cash Assistance for Immigrants Program (CAPI), and the Adult Protective Services Program (APS). **Unless otherwise noted, these statutes became effective on January 1, 1999.**

The legislative summaries are for general informational purposes only. Separate All-County Letters or All-County Information Notices have been or will be issued for some of the statutes to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, the new statutes have been listed by the program(s) that were affected by the amendments.

## **IN-HOME SUPPORTIVE SERVICES PROGRAM**

### **AB 668 (Aroner) Chapter 896, Statutes of 1998**

This legislation allows the assessment and authorization of waiver personal care services for persons who are eligible for either nursing or model nursing facility waiver services. This population may include IHSS recipients who are eligible under the waivers. The bill also mandated that these services be provided as supplements to, not as substitutes for IHSS services. Finally, the combination of the waiver personal care services and the IHSS must prevent recipients' admissions into nursing homes and must be cost effective, i.e., cost less than the prevented institutionalizations.

Although this urgency legislation was effective September 28, 1998, a federal Medicaid waiver may be necessary for its implementation. The Department of Health Services (DHS) has until April 1, 1999 to determine whether a waiver will be necessary and, if appropriate, to submit their request for that waiver.

### **AB 1780 (Murray) Chapter 980, Statutes of 1998**

This legislation primarily affects APS programs; however, it also impacts the IHSS Program. This summary speaks only to the bill's affect upon the IHSS Program. Details regarding its affect upon the APS programs are provided in this notice's APS section.

The legislation expanded the definition of "mandated reporter" to include individuals who provide any level or type of care to disabled adults and the elderly. Consequently, IHSS providers are now mandated reporters of abuse or suspected abuse of their recipient employers. Additionally, the legislation increased the criminal penalty for mandated reporters who fail to report abuse or suspected abuse which results in great bodily injury or death. This crime is now punishable by up to a year in county jail and a fine of up to \$5000.

### **AB 2401 (Shelley) Chapter 479, Statutes of 1998**

This legislation authorizes the City and County of San Francisco to implement a three-year pilot project to improve IHSS consumer satisfaction. Specifically, the project allows IHSS services to be delivered through a pool of providers at specific sites. The provider pools are selected by IHSS recipients, site staff, and county staff to provide the level and quality of services required by state statute. CDSS may formally waive the enforcement of any statutory requirements, regulations, or standards deemed necessary as a result of the project. In doing so, the project would then be operated in accordance with any conditions associated with the department's waiver(s).

Up to five nonprofit-owned HUD-subsidized senior housing projects may participate in the project. For those recipients who opt to participate, the full scope of IHSS services are

provided. Personal care services are provided at the times and frequency appropriate to meet each recipient's needs intermittently throughout the course of the day. As a separate consumer option, certain related services can be provided for several recipients simultaneously.

#### **AB 2779 (Budget Bill) Chapter 329, Statutes of 1998**

This budget-related legislation enacted several provisions, three of which affected adult programs. Specifically, these provisions affected the SSI/SSP, CAPI, and IHSS programs. This summary regards only amendments to the IHSS Program.

The IHSS-related mandates allow IHSS recipients who are not otherwise eligible for Medi-Cal, who have a share-of-cost, and whose providers meet PCSP eligibility standards to be considered as PCSP IHSS recipients, i.e. federal financial participation may be claimed for these individuals. For those recipients whose Medi-Cal shares-of-cost are greater than their IHSS shares-of-cost, the state pays the difference between these amounts. Future compliance with the legislation is contingent upon federal reimbursement being greater than the state's payments to cover the shares-of-cost and other bill-related costs. Although this urgency legislation was effective September 28, 1998, its implementation is contingent upon the receipt of a federal waiver. DHS has submitted the waiver request and is currently awaiting a response.

#### **SB 1384 (Burton) Chapter 42, Statutes of 1998**

This legislation indefinitely authorizes the City and County of San Francisco's existing practice of using county funds to pay IHSS providers at rates higher than the required minimum wage rate. The county may increase its rates to any level as long as the amount is in accordance with the provisions of the Medi-Cal State Plan. This urgency legislation became effective May 22, 1998.

#### **SB 1483 (Avala) Chapter 275, Statutes of 1998**

This legislation requires county IHSS staff to provide visually impaired IHSS applicants/recipients with information and referral services regarding community public and nonprofit entities that provide reading services for these individuals. The legislation did not define "visually impaired."

### **SPECIAL CIRCUMSTANCES PROGRAM**

#### **AB 1656 (Budget Bill) Chapter 324, Statutes of 1998**

This budget bill appropriated \$8.3 million for the costs incurred with the reinstatement and ongoing administration of the SC Program for FY 1998/99. This program had been suspended in July 1992 because of California's economic difficulties. By funding the SC, the Legislature also formally reinstated the program.

The SC Program assists aged, blind, and disabled SSI/SSP, IHSS, and CAPI recipients with costs for nonrecurring needs associated with their individual situations. The payments are intended to minimize

hardship (e.g., through repair or replacement of appliances or essential items lost through catastrophe). In some cases, SC payments have the added effect of preventing recipients' institutionalizations.

This legislation became effective on August 21, 1998. An All-County Letter and a County Fiscal Letter have been issued to assist counties with the program's reinstatement and claiming procedures.

### **SUPPLEMENTAL SECURITY INCOME/ STATE SUPPLEMENTARY PAYMENT PROGRAM**

#### **AB 2779 (Budget Bill) Chapter 329, Statutes of 1998**

The legislation provided a one-time 1% increase in addition to the standard annual SSP COLA granted for SSI/SSP payment standards. This increase was computed based upon SSI/SSP grant amount totals after the computation of the program's annual COLA, which was based upon the California Necessities Index. The increased rates were effective January 1, 1999.

### **CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)**

#### **AB 2779 (Budget Bill) Chapter 329, Statutes of 1998**

##### **CAPI Program**

This legislation provides cash assistance via the CAPI program to aged, blind, and disabled legal immigrants who are not U.S. citizens. These individuals must meet SSI/SSP Program eligibility criteria, but must have been declared ineligible solely because of their immigration status pursuant to Title IV of Public Law 104-193 and any of its subsequent amendments. The CAPI provides cash benefits that are \$10 less than those provided pursuant to the SSI/SSP Program. Except for the immigrant provisions, the state's program must follow federal and state SSI/SSP laws and regulations.

This urgency legislation became effective September 28, 1998. Until the legislation's July 1, 1999 deadline for emergency regulations, the program may be governed by means of All-County Letters.

### SSI/SSP COLA

As summarized in the SSI/SSP Section above, this legislation contained provisions that increased the SSI/SSP annual COLA for FY 1999 by 1%. Because CAPI recipients receive the same cash benefit amounts (less \$10) as SSI/SSP recipients; the COLA also applied to CAPI grant amounts.

## **ADULT PROTECTIVE SERVICES PROGRAM**

### **AB 1780 (Murray) Chapter 980, Statutes of 1998**

This legislation expanded the requirements for mandated reporters, reports, and penalties for abuse or suspected abuse of dependent adults or the elderly. Additionally, the bill expanded definitions of "abuse" and "mandated reporter." "Abuse" has been expanded to include abandonment, isolation, financial abuse, and neglect. "Mandated reporter" has been expanded to include any person who provides any type of care for dependent adults or the elderly, including staff from public and private facilities. The criminal penalty for a mandated reporter's failure to report abuse or suspected abuse which results in death or great bodily harm has been increased to up to a year in county jail and a fine of up to \$5000. Finally, the legislation amended abuse report writing and confidentiality requirements for mandated reporters.

SB 2199, which contained identical provisions, was subsequently chaptered and as required by statute, took precedence over this legislation. A summary for SB 2199 is provided on Page 6 of this notice.

### **SB 1715 (Calderon) Chapter 935, Statutes of 1998**

This legislation increased the penalty for false imprisonment of the elderly and dependent adults when it is achieved by the use of violence, menace, fraud, or deceit. Prior to this legislation, the maximum penalty for such a crime was \$1000 or a year in the county jail or both the fine and the jail term. As a result of this legislation, the maximum penalty may now be a state prison term of up to either two, three, or four years.

The legislation also protects dependent adults and the elderly from those who would abuse or murder them to collect their estates. Specifically, when certain conditions are met, the bill deems the abuser/murderer to have "predeceased" the victim, thus prohibiting the perpetrator from collecting anything from the victim's estate.

**SB 2199 (Lockyer) Chapter 946, Statutes of 1998**

This legislation took precedence over and enacted AB 1780's Adult Protective Services (APS) program mandates. Specifically, the bill expands abuse-reporting requirements, criminal penalties for failure to report abuse, confidentiality requirements, and several definitions.

The bill also adds a chapter to the Welfare and Institutions Code that requires all counties to establish and maintain full-service APS programs. The services these enhanced programs must provide include, but are not limited to 24-hour hotlines, specifically staffed multidisciplinary teams, abuse report investigations, client needs assessments, remedial and preventative social work activities, emergency shelter, and the provision of necessary tangible resources such as food, transportation, and in-home protective care. Compliance with the mandates of this new chapter is contingent upon funds provided by the annual Budget Act. However, certain potentially open-ended services such as emergency shelter and the provision of tangible resources are required only to the extent of the availability of a county's resources.

This legislation becomes effective May 1, 1999. All-County Letters or similar departmental instructions may be used to implement the bill until January 31, 2000, the deadline for the adoption of state regulations.

For questions regarding this notice, please contact your county's Adult Program consultant at (916) 229-4000.

***Original Document Signed By  
Donna L. Mandelstam On 01/25/99***

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Deputy Director  
Disability and Adult Programs Division

c: County Welfare Directors Association